

Remarks

Claims 44-47 were pending. No claims are added or cancelled. Therefore, claims 44-47 are still pending.

In the restriction requirement dated September 15, 2006, it was noted that claims 1-47 were pending. However, a preliminary amendment was filed with this divisional application (Exhibit A), wherein claims 1-46 were cancelled (as they were prosecuted in the parent application). Therefore, no additional restriction requirement is needed. Applicants request confirmation that the preliminary amendment filed has been entered.

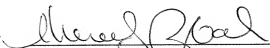
Applicants elect Group II (claims 44-47).

If there are any questions, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jacobus de Bruijn

Application No. _____

Filed: January 9, 2004

Confirmation No. _____

For: ENDOPHYTE OF A TALL FESCUE
VARIETY HAVING RHIZOMES

Examiner: Not yet assigned

Art Unit: Not yet assigned

Attorney Reference No. 4978-67652

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PRELIMINARY AMENDMENT

**Prior to calculating the fees and examination of the above-referenced application, please
amend the application as follows:**

Amendments to the Specification begin on page 2.

Amendments to the Claims are reflected in the listing of claims, which begins on page 3.

Remarks begin on page 4.

Amendments to the Specification

Please amend the title of the invention as follows:

ENDOPHYTE OF A TALL FESCUE VARIETY HAVING RHIZOMES

Please insert the following new paragraphs on page 1, immediately following the title:

--CROSS-REFERENCE TO RELATED APPLICATION

This is a divisional of U.S. Application No. 10/066,345, filed January 30, 2002.--

Claims

1-43. (Cancelled)

44. (Currently Amended) An endophyte of ~~the grass plant of claim 1~~ a tall fescue plant, wherein the tall fescue plant comprises the morphological and physiological properties of a grass plant grown from a seed deposited under American Type Culture Collection (ATCC) No. PTA-3825.

45. (Currently Amended) The endophyte of claim 44, wherein the grass tall fescue plant comprises about 55 ppb of ergovaline and <100 ppb of lolitrem B.

46. (Currently Amended) An endophyte of the seed of ~~claim 13~~ a tall fescue plant, wherein the tall fescue plant comprises the morphological and physiological properties of a grass plant grown from a seed deposited under ATCC No. PTA-3825.

47. (Original) The endophyte of claim 46, wherein the seed comprises about 55 ppb of ergovaline and <100 ppb of lolitrem B.

By this amendment the title has been amended and the specification has been changed to reflect prior related application.

Claims 1-43 were cancelled because they were prosecuted in the parent application. Claim 44 was amended due to the cancellation of claim 1. Claim 46 was amended due to the cancellation of claim 13. Claim 45 was amended to correct the antecedent basis in view of the amendment to claim 44. Therefore, claims 44-47 are now pending.

No new matter has been added by this amendment.

Respectfully submitted,

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